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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/840,102

05/06/2004

Clifford J. Pendleton

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7590

11/01/2006

SIMON, GALASSO & FRANTZ PLC.

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EXAMINER

COLLADO, CYNTHIA FRANCISCA

ART UNIT

PAPER NUMBER

3618

DATE MAILED: 11/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/840,102

Applicant(s)

PENDLETON, CLIFFORD J.

Examiner

Cynthia F. Collado

Art Unit

3618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 12-17 is/are rejected.
- 7) ☒ Claim(s) 6-11, 18 and 19 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 May 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Response to Amendment*

Applicant submitted an amendment dated August 14, 2006, wherein claims 1-19 remain in the application for consideration and applicant provided remarks for reconsideration.

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-5 and 12-17 are rejected under 35 U.S.C. 102(b) as being anticipated by Hull et al'451 (US Patent No.5, 775,451).

Regarding claim 1, Hull discloses a plurality of pre-set cruise control speed buttons each corresponding to a respective pre-set cruise control speed (see figure 1, element 12 and 22); and cruise control logic circuitry coupled to said pre-set cruise control speed buttons and configured for implementing control of a vehicle speed to maintain the respective pre-set cruise control speed corresponding to a selected one of said pre-set cruise control speed buttons (see column 3, lines 64-67) and (column 2, lines 5-11).

Regarding claims 2 and 13, Hull discloses a wherein each one of said pre-set cruise control speeds corresponds to a respective legal roadway speed (see figure 4).

Regarding claims 3, Hull discloses the respective pre-set cruise control speed and outputting a control signal corresponding to the respective preset cruise control speed (see column 2, lines 33-37).

Regarding claims 4 and 14, Hull discloses activating components of an original equipment cruise control system; and setting said components of the original equipment cruise control system to maintain the respective pre-set cruise control speed corresponding to the selected one of said pre-set cruise control speed buttons (see column 5, lines 6-14).

Regarding claim 5, Hull discloses a current speed set button for implementing control of the vehicle speed to maintain a vehicle speed exhibited at the time when the current speed set button is depressed. (See column 5, lines 31-44).

Regarding claims 12, Hull discloses a plurality of pre-set cruise control speed buttons each corresponding to a respective pre-set cruise control speed (see figure 1, element 12 and 22), a current speed set button for implementing control of the vehicle speed to maintain a vehicle speed exhibited at the time when the current speed set button is depressed (see column 2, lines 1-11) and cruise control logic circuitry coupled to each one of said buttons and configured for implementing control of a vehicle speed to maintain a cruise control speed corresponding to a selected one of said buttons (see column 3, lines 61-67), wherein implementing control of the vehicle speed includes determining the cruise control speed corresponding to a selected one of said buttons and outputting a control signal corresponding to the cruise control speed corresponding to a selected one of said buttons and wherein the control signal simulates a signal

interpretable by logic of an original equipment manufacturer cruise control system (see column 5, lines 5-45).

Regarding claims 15-17, under the principles of inherency, if a prior art device, in its normal and usual operation, would necessarily perform the method claimed, then the method claimed will be considered to be anticipated by the prior art device. When the prior art device is the same as a device described in the specification for carrying out the claimed method, it can be assumed the device will inherently perform the claimed process. *In re King*, 801 F.2d 1324,231 USPQ 136 (Fed. Cir. 1986).

### ***Allowable Subject Matter***

3. Claims 6-11,18 and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

Applicant's arguments filed August 14, 2006 have been fully considered but they are not persuasive.

Applicant argued the rejection of claims 1,12 and 15 under 35 U.S.C 102(b) was improper for the reason that Hull fails to disclose a one touch pre-set cruise control speed button corresponding to a respective legal roadway speed wherein the speed is selected by depressing one button, however examiner disagrees with applicant for the reason that Hull discloses a cruise control system within a vehicle activated by a key pad which is capable of becoming a one-touch cruise control speed button, for example, while driving on a residential street where there are children playing, the hull key pad is capable of becoming a one touch cruise control if the driver were to choose 9 miles/hr. For this reason, the rejection stands.

***Allowable Subject Matter***

Claims 6-11,18 and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Conclusion***


**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

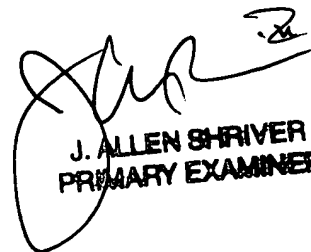
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cynthia F. Collado whose telephone number is (571) 272-8315. The examiner can normally be reached on mon-fri 8-4.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
CFC 10/28/06

  
J. ALLEN SHRIVER  
PRIMARY EXAMINER